IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Tr.P(C).No. 96 of 2007()

OP.11/2007 of FAMILY COURT,WAYANAD
OP.16/2007 of FAMILY COURT, WAYANAD

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PETITIONER

SREELATHA.V.G., SIVAKRIPA HOUSE,
EDAVATTOM P.O., KULASEKHARAMANGALAM, VAIKOM,
KOTTAYAM DISTRICT.

BY ADV. SRI.MOHAN IDICULLA ABRAHAM
SRI.MARTIN D.ALUMKARA
SMT.PUSHPY B.MURICKEN
SRI.ROY GEORGE

RESPONDENT:

B.MANOJ KUMAR, RAMAPURATH HOUSE,
MANAKADAVAN QUARTERS, BUILDING NO.2,
POOMALA P.O., SULTANBATHERI, WAYANAD DISTRICT.

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

Tr.P.(C) No.96 of 2007

Dated: September 10, 2007

ORDER

The petitioner in the above transfer petition had initiated three proceedings before the Family Court, Kottayam. The respondent is her husband. The marriage of the petitioner and the respondent was solemnized on 5.12.1999 at the Mahadeva Temple at Kallara, Kottayam District. Both the parties are permanent residents of the Kottayam District. On 13.10.2001 a child was born to the parties. According to the petitioner she was subjected to cruelty and severe ill-treatment by the respondent/husband, both physically and mentally on several occasions. In such circumstances the petitioner was compelled to leave her matrimonial home on 2.12.2006 along with the child. Thereafter she is living with her parents in her parental home. The respondent is doing contract work in Wynad District which is at a distance of 300 kms. from the petitioner's residence.

2. Since all efforts made by the petitioner and her family members to settle the disputes between the husband and the wife failed, the petitioner filed O.P.937/2006 for divorce before the Family Court, Kottayam. The petitioner also filed O.P.No.938/2006 for recovery of cash and gold ornaments entrusted with her husband at the time of marriage. Since the petitioner is a housewife and has no income whatsoever, she was compelled to file M.C.No.248/2006 before the same court for her maintenance and for the maintenance of her child. The

Family Court, Kottaym had passed an order directing the respondent/husband to pay interim maintenance at Rs.600/- per month to the petitioner and her child.

3. It is submitted that after getting notice on these three proceedings, the respondent filed O.P.No.11/2007 seeking custody of the child and O.P.No.16/2007 for restitution of conjugal rights, before the Family Court, Wynad. In both these cases the petitioner appeared and is regularly attending the court by travelling a distance of 300 kms. According to the petitioner, the initiation of proceedings before the Family Court, Wynad which is at a distance of 300 kms. away from the Family Court, Kottayam is only with the sole intention to harass the petitioner and her child, that the respondent who is a permanent resident of Kottayam District is temporarily living at Wynad and that he has no reason to initiate proceedings before the Family Court, Wynad. It is also submitted that the petitioner is a person without any means and now she is depending for her livelihood on the income which was granted by the Family Court, Kottayam towards interim maintenance. She has to travel all the way to Wynad on the previous day of the posting of the case, to stay there and attend the court proceedings on the next day. According to her, this conduct of the respondent is causing severe hardship to the petitioner and her child.

4. Going by the facts and circumstances narrated above, I am of the view that for reasons more than one, O.P.11/2007 and O.P.16/2007 pending before the Family Court, Wynad are matters which are to be tried along with the cases pending before the Family Court, Kottayam not only by reason of the

convenience of the parties, but also for the reason that there is a possibility of conflicting decisions on the same issues if those cases are tried separately by two courts having jurisdiction.

Therefore, in the interests of justice I order transfer of O.P.11/2007 and O.P.16/2007 pending before the Family Court, Wynad to the Family Court, Kottayam, to be tried along with O.P.Nos.937/2006, 938/2006 and M.C.No.248/2006. Ordered accordingly.

HARUN-UL-RASHID
JUDGE

mt/-